

*In re James Ashworth McGraw and Cheryl Lynn McGraw*, Case No: 04-11693, and *In re Jay Lawrence Morris*, Case No: 04-12209, October 2, 2009

- Debtors sought discharge after making 62 payments on a 60 month payment plan where the 60 month payment period was calculated from the date of confirmation rather than from the date of filing.
- *Holding*: For all cases filed on or after August 1, 2009, the 60 month payment period will be calculated from the time of filing rather than from the time the plan was confirmed. For cases filed on or before July 31, 2009, the Court will allow requests for discharge after 60 months on a case-by-case basis based on legal and equitable considerations (such as when the request for discharge was filed and whether payments have been disbursed).

*Karen Russell v. Jason Andre Caffey*, Adv. Case No.: 07-01091, September 30, 2009

- Russell filed a motion for writ of arrest in Tuscaloosa County in order to collect unpaid child support from Caffey. Caffey was found in contempt by the Tuscaloosa Circuit Court, but filed bankruptcy before the final judgment and order was entered. Caffey was later arrested based on the Circuit Court writ. Caffey filed an adversary complaint seeking to void orders entered by the Tuscaloosa Circuit Court after the bankruptcy filing and sought damages under § 362(k) for Russell's violation of the automatic stay.
- The Bankruptcy Court determined (1) Russell and her counsel had appropriate notice of Caffey's bankruptcy filing, (2) Russell submitted to the jurisdiction of the Bankruptcy Court by appearing herself and through counsel at hearings and trial, (3) Caffey's incarceration was for civil rather than criminal contempt, and (4) the abstention requirements of *Carver v. Carver*, 954 F.2d 1573 (11th Cir. 1992), were inapplicable.
- *Holding*: U.S. District Court Judge Granade affirmed U.S. Bankruptcy Court Judge Mahoney's finding that Russell violated the automatic stay and awarded appropriate relief.

*In re Brittny Nicole Lee*, Case No: 09-14568, January 7, 2010

- Debtor successfully defended against Creditor's Motion for Relief from Stay and sought attorney's fees as the "prevailing party," citing *In re Fowler*, 395 B.R. 647 (Bankr. W.D. Ark. 2008), and *In re Haun*, 396 B.R. 522 (Bankr. D. Idaho 2008).
- *Holding*: The Supreme Court's opinion in *Travelers Cas. & Sur. Co. of Am. V. Pac. Gas & Elec. Co.*, 549 U.S. 443 (2007), applies. No attorney's fees are awarded unless there is a statute or enforceable contract providing for allocation of attorney's fees.